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Nebraska Retirement Systems Committee
March 18, 2009

[LB426]

The Committee on Nebraska Retirement Systems met at 12:10 p.m. on Wednesday, March 18, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB426. Senators present: Dave Pankonin, Chairperson; Jeremy Nordquist, Vice Chairperson; Lavon Heidemann; Russ Karpisek; LeRoy Loudon; and Heath Mello. Senators absent: None.

SENATOR NORDQUIST: Welcome to the Nebraska Retirement Systems Committee. We will be hearing one bill today, LB426. We will...the rest of the committee members will be joining us and I'll introduce them as they come in. We have our committee clerk. We can maybe do self-introductions if you... []

DENISE LEONARD: I'm Denise Leonard. []

SENATOR NORDQUIST: Denise. I'm Jeremy Nordquist, Vice Chair of the committee, and I represent District 7 in the Legislature. []

KATE ALLEN: And I'm Kate Allen, legal counsel for the committee. []

SENATOR NORDQUIST: Great. I will remind you, if you do have cell phones or pagers or anything like that, please silence those. And we will begin. Before I start, could I see a show of hands of how many people plan to testify over all? Eight. Okay. We ask that you keep your testimony brief and not repeat other testimony, but we will begin with Senator Pankonin to open on LB426. []

SENATOR PANKONIN: (Exhibit 1) Thank you, Senator Nordquist and members that aren't here yet. I am Dave Pankonin, D-a-v-e P-a-n-k-o-n-i-n, and I represent the 2nd Legislative District. LB426 creates a defined contribution retirement plan for police officers of cities of the first class that will provide comparability of police officer pensions in all cities of the first class. The retirement plan includes specific contribution rates for employees with matching contributions for employers, a five-year vesting period, portability of pension contributions from one city of the first class to another. Police officers may continue to participate in deferred compensation programs as may be available in their respective cities, and existing death and survivor benefits will remain unchanged. Cities of the first class payments for increases in contributions due to this legislation shall be outside lid and levy restrictions. LB426 was introduced before all the final numbers could be plugged in regarding contribution rates and operative dates; therefore, we have inserted into your notebooks AM373. This amendment becomes the white copy of LB426. The following new information is incorporated into AM373. On October 1, 2009, cities of the first class would increase their current contributions to 8 percent of pay with an equal 8 percent employee match. On October 1, 2012, the city contribution would increase to 9 percent with an equal 9 percent employee match.

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Secondly, the new vesting schedule begins on October 1, 2009, and the effective date for implementation of the new act is changed to October 1, 2009. LB426 is the result of many years of negotiation between the League of Municipalities, the affected cities, and the various law enforcement associations. I appreciate their work and commitment to create retirement parity among law enforcement personnel in cities across the state. Thank you. And as been indicated, there are going to be many folks testifying after me that can probably answer more questions if you have them. [LB426]

SENATOR NORDQUIST: Sure. Thank you, Senator Pankonin. First, I'd like to introduce Senator Russ Karpisek from Wilber and Senator Heath Mello from Omaha who joined us. Are there any questions for Senator Pankonin at this time? Seeing none, thank you. We'll begin with proponent testimony. If you are testifying, there are sheets to fill out in the back and you can put them in the box by Denise. And please state and spell your name when you testify. Thank you. First testifier. [LB426]

ROLAND YOST: (Exhibit 12) Good afternoon. My name is Roland Yost. I'm a captain with the Sarpy County Sheriff's Department and I'm speaking to you today on behalf of John Francavilla, who is president of the state lodge of the Fraternal Order of Police. Unfortunately, John had a surgical procedure yesterday and is not able to be here today, so I will be reading a letter that he has put together: Good afternoon, Chairman Pankonin and members of the Retirement Committee. My name is John Francavilla. I am the president of the Nebraska Fraternal Order of Police, representing over 2,700 law enforcement officers across the state of Nebraska. I am also a police officer with the city of Omaha, with over 21 years of service. I would like to thank the committee for giving us this opportunity and to Senator Pankonin for introducing LB426. I am presenting this letter on behalf of the Nebraska Fraternal Order of Police in support of LB426. Members of the committee, it has been many years since there have been any changes to law enforcement retirement for officers in first-class cities. The last significant change was passed in 1983. LB426 has been a long process with many changes and compromises. In 2001, Senator Jon Bruning introduced LB619 to make changes to the retirement system. In that hearing, FOP vice president Mark Overman and our lobbyist were the only parties present in the hearing room in favor of the plan. The other three parties in the room represented the League of Nebraska Municipalities and spoke against the plan. After that, we sought advice and support from Governor Ben Nelson. One of his representatives told us that the first thing we needed to do was to "get all of law enforcement groups on the same page." Senators, it took us some years but we have done that. Today you see not only the Fraternal Order of Police. You also see the Police Officers' Association of Nebraska, the Police Chiefs Association of Nebraska, and the Nebraska Sheriffs Association here in support of this act. Two years ago, Senator Erdman introduced legislation to create a statewide defined benefit plan for law enforcement. To further this plan, we had to introduce and pass legislation to perform an actuarial study. The law enforcement groups you see here today bore the cost of that expensive study. By the time the study was completed, we had very little time left in last

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year's session. Following last year's session, senators again suggested that we meet with the league to try to work out a compromise. Senators, we have taken your advice and we have worked with the league and have made some modifications to the existing retirement plan that is mutually agreed upon by both sides. While the defined benefit is something that our membership really do desire, we are aware of the economic times and understand that this is not the time to continue our pursuit of such a plan. However, it is imperative that we immediately improve the existing retirement situation for law enforcement officers in this state. To this end, the Nebraska Fraternal Order of Police, the Police Chiefs Association of Nebraska, the Police Officers' Association of Nebraska, and the Nebraska Sheriffs Association, and the League of Municipalities came together in an effort to find some common ground in order to improve this very poor retirement system. We have done as you've asked. Now we ask for your support and move LB426 forward. Thank you for your time and consideration on this matter, and I will stand for any questions that you might have. Fraternaly, John Francavilla, president, Fraternal Order of Police, Nebraska State Lodge. [LB426]

SENATOR NORDQUIST: Great. First, I'd like to introduce Senator LeRoy Loudon from the 49th Legislative District, has joined us, and Senator Lavon Heidemann from the 1st Legislative District has joined us. Are there any questions for Mr. Yost? Seeing none, thank you. [LB426]

ROLAND YOST: Thank you. [LB426]

SENATOR NORDQUIST: Next proponent. [LB426]

JIM PESCHONG: (Exhibits 10 and 11) I have a few handouts here, as well. Mr. Chairman, members of the Retirement Committee, my name is Jim Peschong, P-e-s-c-h-o-n-g. I am here on behalf of the Police Officers' Association of Nebraska and we are encouraging your support for LB426. This bill is a result of the Police Officers' Association of Nebraska, the Police Chiefs Association of Nebraska, the Nebraska Sheriffs Association, the Fraternal Order of Police, and the League of Municipalities sitting down and trying to find common ground on issues of providing better retirement benefits for police officers of first-class cities. There have been many compromises on both sides to get us to where we are here today. I believe you're getting a couple of handouts that I kind of want to wind up going through with you a little bit. The first one that I want to wind up talking about is this particular handout here. It's not the chart or anything like that, but I wanted to wind up taking you through this a little bit to explain to you or to give you some information that what we are asking for in LB426 is not out of line in regards to what other law enforcement officers around the state, as well as governmental entities, are currently paying toward retirement benefits for law enforcement officers. The first one is an example of what currently the Lincoln Police Department's retirement plan is and, at this particular point in time, employees of...that are commissioned are currently paying 9.45 percent toward their retirement contribution

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plan and the city of Lincoln is paying just a little bit over 11.45 percent. The Nebraska State Patrol, the employees or the troopers are currently paying 14.45 percent of their salary toward their retirement benefits and the state is paying 16.45. It's my understanding, as of July of this year, a trooper will now be paying 16.45 and the employer, the state, will be paying 16.45. The Omaha Police Department, an employee or a commissioned law enforcement officer there is paying 16 percent of his or her salary toward their retirement benefits and the city is paying 21.62 percent. LB426, starting October 1 of 2009, a commissioned law enforcement officer for the first-class city will be paying 16 or, excuse me, 15.65 percent of their salary, as well as the employer. And in October 1 of 2012, that contribution will go to 9 percent, which will be 16.65 for the employee and the employer. The next couple of handouts that I've given you or passed out is a chart, and I just wanted to wind up giving you a little bit of an idea in regards to what this cash contribution into a retirement plan would actually mean for a newly hired police officer for the city of Kearney. I've taken the city of Kearney's data and plugged in what they currently start their police officers at. I've made a couple of assumptions here, that being that the newly hired police officer would be 21 years of age, and the chart then takes you out 44 years, which would then take the employee to age 65, or you can back it off wherever. I've also assumed an annual cost-of-living adjustment of 2 percent, and chart one has if there is a 4 percent return on that investment over a period of 44 years, and the second chart is a 5 percent return. The bottom line or the green line on the bottom represents the amount of money that the employee and the employer would have to contribute to that plan, and currently at the 12 percent investment, where they are currently investing at, 6 and 6, it shows what it is that they would have at the end of that 44 years on those assumptions. And the middle line, the red, is at 16 percent, 8 and 8, on employee/employer and what they would wind up having for a cash balance. And then the blue line is 18 percent, that being 9 and 9. And as you can see, the amount is pretty significant when you wind up doing the compounding interest over a number of years. This bill is not about holding up the taxpayer. It's not about trying to beat the cities of the first class out of money to make contributions. It really is about taking care of the law enforcement men and women out there that are doing the job. They're willing to make the equal contributions. They want to wind up making sure that there is a pool of cash that is set aside for them so they really don't have to be out on the streets or on the roads doing their job when they're in their mid to late 60s, early 70s, when they, too, may not feel like it's safe for them to be out there. But right now they're finding that they can't retire because of the way the economy is, as well as they have not been able to generate a large enough nest egg for them to retire, and so we're trying to get to that particular point. So we would strongly encourage the committee to support LB426. And I thank you for your time and consideration and I'd be happy to answer any questions that you may have. [LB426]

SENATOR NORDQUIST: Thank you. Are there any questions for Mr. Peschong?
[LB426]

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JIM PESCHONG: Thank you. [LB426]

SENATOR NORDQUIST: Oh, Senator, sorry. Got one here. [LB426]

JIM PESCHONG: Oh, I'm sorry. [LB426]

SENATOR NORDQUIST: Senator Louden. [LB426]

SENATOR LOUDEN: Yes. I haven't looked all of it all over that close. Is this in conjunction with paying into Social Security also? [LB426]

JIM PESCHONG: Yes. The figures that I've... [LB426]

SENATOR LOUDEN: That you give here, yeah. [LB426]

JIM PESCHONG: ...that I've given here, it includes Social Security where Social Security is being paid by a particular employee or an employer. Some of these agencies don't pay Social Security but they pay Medicare tax. [LB426]

SENATOR LOUDEN: Okay. [LB426]

JIM PESCHONG: And so I've included that dollar amount in there to try to make sure that the dollar figures that each employee contributes toward their retirement is consistent both on the governmental entity and on the employee. [LB426]

SENATOR LOUDEN: Then on some of these you'd take out that 6. or 7.65 percent that each side contributes off of some of these numbers here you have here. [LB426]

JIM PESCHONG: Yes, I have. [LB426]

SENATOR LOUDEN: Okay. [LB426]

JIM PESCHONG: So this percentage should be exactly what, and I've tried to confirm this with the governmental entity and the officers that work in that...in those areas. [LB426]

SENATOR LOUDEN: Well, if you've got the Social Security included in this, this line then isn't exactly like it should be then, because this...it's my understanding that this line is the amount of money that an employee would have contributed to his account over a period of years. But if there's Social Security in there, that shouldn't be in there because that's a different account. [LB426]

JIM PESCHONG: Okay. I was probably misunderstanding your question. The first

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handout that I gave you and I went through that, this is...this shows the dollar amount that an employee contributes, as well as the governmental entity, toward their retirement, and it also includes their obligation for Medicare tax or Social Security. The charts do not represent anything with Social Security. It is totally the cash contribution that the first-class city and the employee contributes to the fund. So this...this would be how much would be standing alone in their cash balance. [LB426]

SENATOR LOUDEN: Okay. [LB426]

JIM PESCHONG: And this document here, I wanted to just show whether or not what we're asking is above and beyond what other governmental entities or law enforcement officers are contributing toward their retirement and trying to show that what is being asked for in LB426, we're not asking for more than what other governmental entities and law enforcement officers are doing. So I didn't want to wind up confusing the issue, but... [LB426]

SENATOR LOUDEN: Well, yeah, I guess...I don't know if I'm straight on it or not. I guess for instance like the teacher retirement, see, the districts contribute a certain amount and they also pay into Social Security and the employee pays Social Security also. [LB426]

JIM PESCHONG: Yes. [LB426]

SENATOR LOUDEN: Those are two separate accounts. How have you got this, in this handout here, how have you got that figured into here? [LB426]

JIM PESCHONG: Okay. The Social Security is only, and Medicare taxes only showed by comparison in here. It's not shown in the dollar amount, which is the amount of money that is invested for a pool of cash. [LB426]

SENATOR LOUDEN: Okay. [LB426]

JIM PESCHONG: So when you look at...let's just take the dollar figure on the 5 percent chart that depicts an assumption of 2 percent cost-of-living growth every year, as well as a 5 percent return on their investment, both the city's investment and the officer's investment, the question would be how much would be set aside for that officer to potentially retire on. And on this chart, if they work till 65 years of age, it would be \$1.8 million. Now they would wind up having, if there is Social Security, I'm assuming that there will be, they will also have a Social Security benefit that they would wind up having in addition to this pool of cash that they would then wind up saying, okay, how long can I live? You know, can I live 20 years on this money? Can I live 30 years? Can I live five years? [LB426]

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SENATOR LOUDEN: Okay. My next question is, if some of this money in your curve here is their own money that they're contributing to it... [LB426]

JIM PESCHONG: Yes. [LB426]

SENATOR LOUDEN: ...say they...police officer for ten years and they decide they don't want to do that anymore? Are they allowed to take their share back out of there or what becomes of that money and what becomes of the amount that was contributed by the employer side? [LB426]

JIM PESCHONG: Okay. Someone correct me if I'm wrong but I think it's a five-year vestment. [LB426]

ROLAND YOST: Yes. [LB426]

JIM PESCHONG: Okay. After five years, let's say that this new officer would work for the city of Kearney and they would work for six years. At the time that they've worked for six years, they would be entitled to the city's money and their money, and they would then roll it over to a 401 or whatever, a retirement fund. If they only worked for four years, they would be entitled to their money but not the city's money. [LB426]

SENATOR LOUDEN: Okay. Okay. I understand that. [LB426]

JIM PESCHONG: Okay. [LB426]

SENATOR LOUDEN: Thank you. [LB426]

JIM PESCHONG: You're welcome. [LB426]

SENATOR NORDQUIST: All right. Any additional questions? Seeing none, thank you. [LB426]

JIM PESCHONG: Thank you. [LB426]

SENATOR NORDQUIST: Next proponent. [LB426]

BILL MIZNER: (Exhibit 13) Senator Nordquist, members of the committee, my name is Bill Mizner, that's B-i-l-l and M-i-z-n-e-r. I am currently the police chief in Norfolk and I am here representing the Police Chiefs Association of Nebraska. I am the secretary for the association. I want to advise you that the Chiefs Association is in support of LB426. We had representatives who participated in the negotiations and we stand by the agreement that was reached during those negotiations. As you've heard, this has been somewhat of a long process. Sometimes it's not been real harmonious. I attended a

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committee hearing last year that it was difficult to feel the love. And we were asked, all of us, by Senator Flood and committee members to go back and reach an agreement and bring an agreement that we could all support back to the committee. We have done that. We are in support of this. I believe that you will probably hear some testimony from officers who maybe are not in agreement with this. As in any significant changes, it is hard to get 100 percent support from everyone. However, the vast majority of officers who will be affected by this bill, if you should move it forward and it would be passed and signed, will benefit from this bill. The key thing to understand is that this bill really is not designed to greatly enhance the retirement benefits of those individuals who are close to retirement. Really, what we are attempting to do today, what hopefully you will do is you will enhance those retirement benefits of those young men and women who are going into the field now who have a whole career before them. What they will have available to them for a retirement benefit under the current plan in 30 years versus what may be available to them if LB426 is implemented, I believe, will be very significant. And that's why we're here. That's really who we're working for. We're working for those young officers who have their whole lives before them. We encourage you to support this bill. From a chief's standpoint, I will tell you that more and more I am encountering comments made from my own officers telling me that there are other plans out there in other states or within organizations within the state that seem to have better retirement benefits than what we currently offer. I have one officer who is in the final stages of a hiring process for an agency outside the state. One of the things that he has told us is that as he gets older retirement becomes a greater concern to him and he thinks it's in his best interests and that of his family to look someplace else that will give him maybe better benefits. I have a couple of other officers who are now looking at other areas and one of those reasons is because they feel they can get better retirement benefits at that organization than they can under the current organization. The goal is to try to provide for them, but we also want to be comparable. We want to level that playing field and we want to be able to compete with other agencies or organizations when it comes to hiring but also when it comes to retaining those officers that are currently working for us. And so we, the Chiefs Association, encourages you to support this. And I would be glad to answer any questions you might have. [LB426]

SENATOR NORDQUIST: Thank you, Mr. Mizner. Do we have any questions from committee? Senator Louden. [LB426]

SENATOR LOUDEN: Yes, thank you. Well, as the defined contribution plan, is what we're talking about here,... [LB426]

BILL MIZNER: Yes. [LB426]

SENATOR LOUDEN: ...and who invests the money? What becomes of that money? I mean I haven't looked the bill over close enough to see who guarantees that money somewhere, someplace along the line. Because if it's a defined contribution then you

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get back on the amount you contributed. But if they make some bad decisions in the investment out there someplace, you could lose a big piece of it. That would affect your contributions. How is this bill situated to cover that? [LB426]

BILL MIZNER: Well, I can only speak from my personal experience and with our agency. We have a retirement committee that's composed of officers who are elected by their fellow officers within our agency. They sit on that committee and they oversee the investments, they oversee the opportunities that are available. Our finance officer also is a part of that, that committee as well. They contract with an entity to provide that investment service. And for the majority of the officers, except those who fall under that defined benefit part, as they get closer to retirement eligibility more and more of their funds are pulled back from investment options and put more into a guaranteed investment plan to try to maintain the level of funding that they have there as they get closer to that retirement. Those who do not fall under that, those who fall under the defined contribution, they control their investments. And the organization that we work with has a tool that allows people to go through to determine what kind of investor they are, how much risk they really are willing to take, and gives them some guidelines on how they should invest their funds. And so the individual officer has a great deal of control over where that money goes, how it's invested, and they truly have an interest in seeing what kind of returns they're getting, if that answers your question, sir. [LB426]

SENATOR LOUDEN: Okay. Did you tell me then that there's no guarantee that the bottom won't drop out of this? [LB426]

BILL MIZNER: What I will tell you is that under the...under the defined compensation plan, there is no guarantee that something will be there. And what that does is it puts those officers in a similar situation to a number of individuals all over the country who may have various types of retirement plans. They will do well when things are going real well, and when things fall, as they have in the last year, their plan may take a hit. I believe that's part of it. One of the benefits of having that defined benefit is that, regardless of what happens to the economy, you get whatever was promised to you regardless of whether or not the entity that employs you has the ability to pay it or what burden we'll put on there. I think there are...there are people who feel strongly both ways and I think that's why initially the conversation went towards doing the defined benefit, because that does give the officer pretty much a safe haven. But I think if you look at the defined contribution, the money is going in up front. The employer is putting in, the officer is putting in, and then whatever ends up, ends up. Hopefully, it will be good. Hopefully, there will be guidance to give them direction in how to invest that. But again, it is their money, it is their account, and if they want to take the risk to really make some big money, and there were some years there were significant returns on some of those investments that I think probably if you looked at it probably offset some of the losses we've had recently. But that seems to be the cycle of that. There will be an individual, that has a lot more expertise in the finance area than I will, testifying in a little

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bit and he may be able to answer some more specific questions in that area. [LB426]

SENATOR LOUDEN: Okay. Thank you. [LB426]

BILL MIZNER: You're welcome. [LB426]

SENATOR NORDQUIST: Thank you. Any additional questions? Seeing none, thank you. [LB426]

BILL MIZNER: Thank you. [LB426]

SENATOR NORDQUIST: Next proponent. [LB426]

TERRY WAGNER: (Exhibit 9) Good afternoon, Senator Nordquist, member of the committee. Thank you. My name is Terry Wagner, W-a-g-n-e-r. I'm the sheriff of Lancaster County. I'm a past-president of the Nebraska Sheriffs Association and representative from the Sheriffs Association on our ad hoc retirement committee that's worked on this for several years. I e-mailed all of you a letter this morning, extolling some of the benefits or some of the reasons why LB426, and next week LB427, should be advanced to the floor, and I won't reiterate what I sent to all of you. I would just tell you that one of the arguments that you may hear in either this week or next week is that if police officers get an increased contribution in their defined contribution plan then other government employees are going to want the same thing. And I guess my only argument in justification for these bills is that the longevity of a law enforcement officer is much reduced of that of other government employees. I think first off, once one is past 60 years old chasing a 20-year-old criminal, we break easier and we heal slower. Secondly, the average live expectancy of a law enforcement officer in America is 66 years of age. That's clearly about 14 years younger than the general population and I think that we owe it to our law enforcement officers in this state to enable them to establish a sufficient nest egg to be able to retire before their health is in jeopardy and they don't have a chance to enjoy those retirement years. So Chief Mizner mentioned the retention issue. That is a huge issue. I think employees today are much more savvy about retirement programs than I was when I was a new cop 33 years ago, and it's much more important to them, as new employees, that they have a sufficient retirement plan to enable them to retire after a good career. So with that, I won't belabor the point. The Nebraska Sheriffs Association is supportive of LB426 and we urge you to move it to the floor for debate. I would answer any questions the committee might have. [LB426]

SENATOR NORDQUIST: Thank you, Mr. Wagner. Are there any questions from the committee? [LB426]

DENISE LEONARD: I need... [LB426]

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SENATOR NORDQUIST: Oh, sorry. [LB426]

DENISE LEONARD: Excuse me, Jeremy. I need to receive your sign-in sheet. [LB426]

TERRY WAGNER: I'll get that for you. [LB426]

SENATOR NORDQUIST: Okay. All right. [LB426]

TERRY WAGNER: Thank you. [LB426]

SENATOR NORDQUIST: Thank you. Seeing no questions, thank you. [LB426]

TERRY WAGNER: Thank you very much. [LB426]

SENATOR NORDQUIST: Next proponent. [LB426]

DONALD DREYER: (Exhibit 3) My name is Don Dreyer. I'm the captain with Kearney Police Department. I'm also currently the president of POAN Association. [LB426]

SENATOR NORDQUIST: We need you to spell your name for us. [LB426]

DONALD DREYER: Dreyer is D-r-e-y-e-r. [LB426]

SENATOR NORDQUIST: Great. Thank you. [LB426]

DONALD DREYER: When I was hired in 1978, we were under a defined benefit program. That all changed in 1984. Philosophically and what I believe in and how I believe in retirement, I am a very strong pro defined contribution type of guy. Primarily where I get this in my heart is I am now responsible for my retirement. I'm not going to rely on somebody else I don't know, somebody else I can't go to, to confer with in regards to what I have. Plus, defined benefits generally are very, very concrete in how they are disbursed. Me being married, that's a big concern. If I would die the next day after I retire, my wife would have five years and that would be it off of defined benefit. Defined contribution, that money is mine. I can reinvest it back in the market. I can have it. It's mine. It's willable. It's something I've earned and I've put in extra to help that nest egg, too, for me to retire. What also defined contribution can do that I think is very important is that I am not set specifically at specific years on getting a percentage of what I have earned through my working experience. I can set what I want on my retirement, on how much I need to survive with what's in that account of mine. To kind of make things clear, I pay Social Security, my city pays Social Security, so I am also eligible for Social Security. That again, though, is tied to an age unless I'm disabled. What a defined contribution can do with these larger increases for those officers first starting out is that they are in control of when they might want to retire. They can set a

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goal as far as how much do I need per month to retire and get a study done with...we have real good relationships with our investing agency. They come and they talk to us on a yearly basis. We do have, as Chief Mizner said, there is a board of five officers, along with our city financial officer and one other city employee, I can't remember what exactly his title is, but they govern that account. I am responsible for where my money goes in that account, how much I want to put in on percentage of what's taken out, where I want it. I can do it in high risk. I can do it in very low-risk government bonds if I wanted to. Okay? It's where I want to go, so the decision is all mine. It's my money; I'm making the decisions, hopefully they're informed. Nobody could have ever guessed the market would have dropped down about 50 percent, but I have belief in the markets as long as certain entities in D.C. stay out of it. But that's beyond my control. Where I do have control is how much money I have in there right now and I think that's important. That can drive me to where and when I want to retire. Where I am kind of stuck on a defined benefit, as far as a certain age to get a certain amount back. And this can go to my daughter when me and my wife die or it can go to my son. That doesn't happen in a defined benefit. And thank you very much. Any questions or was that your question or...? (Laugh) [LB426]

SENATOR NORDQUIST: Thank you. Yeah, thank you. Are there any questions from the committee? Seeing none, thank you for testifying today. [LB426]

DONALD DREYER: Thank you. [LB426]

SENATOR NORDQUIST: Next proponent. [LB426]

STEVEN YOUNG: Thank you, Senators,... [LB426]

SENATOR NORDQUIST: Thank you. [LB426]

STEVEN YOUNG: ...for having me here. My name is Steven Young, Y-o-u-n-g. I am the second vice president for the state Fraternal Order of Police. I am also a police officer of over 26 years and a pre-'84 plan participant. In addition, I've also served several years on our local committee. President Francavilla was supposed to be here but came ill suddenly and, at the last minute, I was the best he could come up with, so that's why I'm here and for that I apologize. He corresponded regularly with Senator Pankonin and as issues arise on this particular bill, so I think there was an ongoing correspondence between the two of them. I'm here to stand by our word, as the Fraternal Order of Police, with our agreement that was reached with the League of Municipalities on January the 16th this year. I am a member of the law enforcement committee on retirement that sat in negotiations with the team assembled by the league. We developed a retirement bill at the direction of the Legislature and that's what you have before you, LB426. The two negotiating teams came to a tentative agreement and we conferred with the committee, and the agreement was signed by both the law

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enforcement and the league. There were 25 representatives present, both of law enforcement community and the league. The law enforcement committee had representatives from the Fraternal Order of Police, the POAN, PCAN, NSA, and second-class cities. Voices were heard by all ages and employment through Nebraska law enforcement. At the conclusion, on January 16 a meeting was held with Joseph Mangiamelli--if I mispronounced that I apologize--representing the league and president John Francavilla. At that time, they signed an agreement. The agreement was approved by the executive board of the league and also was agreed on by law enforcement community. I'm here to ensure you that we are still in favor of the language mutually agreed upon in the negotiations with the league. I'm here to stand by our word and President Francavilla's signature on that document. Lynn Rex has been fair and has kept her word. Today I ask that you not only stand behind our agreement and vote LB426 out of committee with a committee priority designation, but to help attain a final objective and enact LB426. I thank you for your time and patience on this very important piece of legislation and am ready to answer any questions you might still have. [LB426]

SENATOR NORDQUIST: Thank you, Mr. Young. Are there any questions? Seeing none, thank you. [LB426]

STEVEN YOUNG: Thank you. [LB426]

SENATOR NORDQUIST: Are there additional proponent testifiers? [LB426]

RANDY GATES: (Exhibit 14) Good afternoon. I'm Randy Gates, R-a-n-d-y G-a-t-e-s, finance officer with the city of Norfolk, and I'm here to talk about what this is going to cost. Handouts are being given to you now that were put together from a sample we got of other first-class cities. When this compromise was reached, I had already figured out what it was going to cost the city of Norfolk. We pay in about \$114,000 on the city 6 percent now, so it was pretty easy to figure out what that's going to do when you go up another 2 percent for three years and in 2012 what that's going to do when it's an additional 3 percent. Those additional costs for the city of Norfolk will be about \$38,000 for the first three years, about \$57,000 thereafter. What's that mean to the taxpayers? In Norfolk's case, on a \$100,000 home, the tax increase will be about \$3.50 dollars during the first year or in the first three years--relatively minor; and after it's fully implemented in 2012, about \$5.20. I thought we might be fairly typical of other first-class cities but I didn't know that for sure. Chief Mizner, the city of Norfolk's police chief, contacted the other chiefs around the state and got from them what their current 6 percent contributions were. For that, of course, it's an easy mathematical function to figure out what that's going to cost them in the first three years, the next thereafter. Took the 2007 assessed valuation, which was the most recent numbers I had readily available, and figured out what it would cost their taxpayers. As you can see, our numbers were probably fairly representative. For the first three years, they range from about \$3.50 dollars per year on a \$100,000 home, to about \$6. After the thing is fully implemented in

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2012, goes from about \$5 or a little more to about \$8.50 dollars--relatively minor costs for a significant enhancement to the police pension plan. I'd be happy to answer any questions. [LB426]

SENATOR NORDQUIST: Thank you, Mr. Gates. Are there any questions from the committee? Seeing none, thank you. Next proponent. [LB426]

AL RODER: Good afternoon. My name is Al Roder, R-o-d-e-r. I am the Norfolk city administrator. I want to be very brief. The committee was challenged to bring very diverse groups of people together to find a solution to a problem that has been existing for quite some time, as evidenced by 25 years since the last change to the retirement plan. That was accomplished and it was no small fete. The solution proposed is fair for everyone. As was evidenced by Mr. Gates just previously, it is a reasonable number. The economy is not good. We've heard that repeatedly. The challenge I think we face, the challenge that you face as senators is, when is the right time? I'm not sure that we can sit back and say there is a right time. The right time is to do what is right for the people that we're representing and I think that time is now. I ask respectfully that you move this forward, recognize the work that has been done by these diverse groups, the people that have come together, honored your request to bring you a solution that was palatable, fair, and reasonable, and I think that's been demonstrated. I thank you for your time and I appreciate your consideration. [LB426]

SENATOR NORDQUIST: Thank you, Mr. Roder. Are there any questions from the committee? Seeing none, thank you. [LB426]

LYNN REX: (Exhibit 15) Senator, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I'd first like to thank Senator Pankonin for his hard work on this issue, as well as the committee. We do appreciate this. We appreciate you selecting this as a second committee priority bill. In addition, I would like to just briefly indicate to you that back in 1983, '82-83, when negotiations were ongoing, which basically resulted in a change, a transformation, if you will, from defined benefit for all officers to defined benefit for pre-'84 officers...actually the greater benefit of the defined benefit plan for pre-'84 and then a defined contribution plan for officers hired after 1984. That was done because when the Legislature first imposed a defined benefit plan in 1965 on first-class city police officers, quite frankly, the Legislature put in not one dime. So we had cities from day one starting out with huge unfunded liabilities. The city of Hastings actually ended up doing a bond issue to try to help pay off those unfunded liabilities. That issue is continuing in terms of cities trying to address those issues for pre-'84 officers. I was speaking with a city administrator last night who told me that one of his officers just retired a couple of weeks ago and, of course, because this person had been with them for a very long period of time and a pre-'84 officer, a city does not just put in the 6 percent. Obviously, there's a 6 percent that those pre-'84 officers put in but, in addition to that, the city puts

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in whatever it takes to make up for the defined benefit so it is more than 6 percent. The purpose of this bill was to provide equity, quite frankly, for those defined contribution officers, the post-'84 officers, and to do that because the cities are all obviously putting in more money than 6 percent for pre-'84. This was intended to basically address those issues for the post-'84 officers. With that, I would, if the page would be...you don't have a page. Oh, you do have a page. Great. Thank you so much. I know you've heard about the agreement. I thought I would pass out a copy of that for your consideration and talk to you about this for the record, and this is what was signed on January 16, 2009. At the head of your sheet you're going to see that it's subject to league executive board approval. Our board did approve it, but I thought you'd want to see the signed copy from Joe Mangiamelli, who is the chair of our negotiating team, as well as John Francavilla, if I'm pronouncing that right, from the city of Omaha representing the FOP and he was the head of their negotiating team and it's already been outlined to you that the negotiating teams for them included the Police Chiefs Association, the Police Officers' Association of Nebraska, the FOP, and the NSA was also involved in this issue. The first element of this is that cities of the second class and villages are not covered by this offer. Secondly, counties are not covered by this offer. On October 1, 2009, the city would increase the city contribution to 8 percent with an equal 8 percent employee match. On October 1, 2012, the city would increase the city contribution to 9 percent with an equal 9 percent employee match. And I want to put a caveat in here. Obviously, for the pre-'84 officers, if you're a pre-'84 officer, because you get the greater benefit of whatever was the defined benefit plan or the defined contribution plan, I'm sure someone will be taking the defined contribution plan. The reality is, for officers that have been with cities for a very, very long time, they're putting in more than these contribution rates. In terms of issue number five, vesting would be reduced to five years. Number six, the legislation would include a provision for portability of pension contributions from one first-class city to another. Number seven, city payments for increases in contributions beyond October 1, 2009, shall be made outside the lid and levy restrictions. We wanted to assure you, with the information that Randy Gates, finance officer for the city of Norfolk, just provided you that we're not talking about huge shifts over to property tax. That's not what is going to occur here. Number eight, the league opposes legislation which would allow individual cities to negotiate separate benefits beyond this because we're dealing with comparability issues as well. Number nine, peace officers may continue to participate in deferred compensation programs as they may be available in their respective cities. Many cities already have those. Number ten, disability and survivor benefits remain unchanged by this offer. And number eleven, it says if we reach agreement, but obviously we did, the parties will agree in writing to not pursue further enhancements to pension legislation for peace officers until 2016. I would also indicate to you that you may be hearing from a few cities. We've got two or three cities that, as you might imagine in any negotiation, are not all excited about this negotiated agreement, just like you may have some police officers, I'm sure, that are not all excited about this. In any negotiation, by definition I think, not every side gets everything that they want. You may also hear that there is a disparate amount contributed for

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firefighters under the defined pension plan and the defined contribution plans that were negotiated for them as well in '83 and '84. There is one important reason for that and that is because we had to provide parity and that parity is because firefighters do not pay...we do not pay FICA under federal law. They do not pay it. We do not play it for them. So that is the difference differential between them. I just got back from Washington, D.C., last night at a meeting involving the National League of Cities and the stimulus package, and I spoke to a league director from the state of California and right now their league is dealing with Vallejo, California, that filed bankruptcy predominantly due to their pension and unfunded liabilities--huge issues. So I really want to indicate to you the strong support that we have for this negotiated agreement, thank Speaker Flood for his encouragement, a strong encouragement for the parties to reach agreement, as well as Senator Adams and others that worked with us to try to make sure that we could reach a negotiated agreement. In addition, I do want to just emphasize to you that we want to express appreciation for the officers and all the time and energy that they put into this effort. I'd be happy to respond to any questions that you have. We certainly appreciate the committee. And I do want to emphasize that on the lid levy issue, we have a little technical issue, we have to deal with committee counsel on that. But we're happy to work with you and continue working with those that have worked on this issue. [LB426]

SENATOR NORDQUIST: Thank you, Ms. Rex. Any questions? Senator Heidemann. [LB426]

SENATOR HEIDEMANN: You indicated, and I hadn't picked up, that the city administrator said there wouldn't be much movement on the levy to accommodate for this. Just thinking about that then would you still support this if we did it inside the lid levy restrictions? [LB426]

LYNN REX: (Exhibit 16) Well, Senator, let me...let me...I didn't know if you were going to ask the question, but if a page would come forward, what I have here, and we just put this together and this is based on 2008 information, what you're going to see is that we have a few first-class cities that right now are up against the maximum levy authority granted to them in 1996 with an effective date of 1998. That levy limit is 45 cents plus 5 cents for interlocal agreements. These are all the first-class cities in the state of Nebraska. You will note that there are only two or three of them. I need my glasses on. I should have brought my glasses up with me. But in any event, you'll note that many of them are below, significantly below, the 45 cents per \$100 of valuation. So we're talking about a few cities here who need to have that authority, in addition, the lid authority, because obviously right now...and also the Revenue Committee, Senator, is looking at potentially doing something on that issue. If they do something, we may not need anything in terms of that issue here, but certainly if they don't we definitely need to have something on the lid side, too, and do we need to have a technical amendment relative to the lid. So from this you can see, and I want to also emphasize that, for example, it

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says in Hastings it says .4728, that's the combined general and bonded indebtedness. Right now bonded indebtedness, and it has been since its inception, is outside the lid and the levy limitations. So when you look at these, you will see, though, that if you look at some of these, for example, you will find that...and some of these of course also have voter approved limitations, but we do have several cities that are close to that 45 cents, but obviously, the overwhelming majority of them are not. So on the levy side, we're not looking at that big of a difference. [LB426]

SENATOR HEIDEMANN: Okay. Just was curious. [LB426]

LYNN REX: Right. And again, I also want to underscore this. It is only for the increase. It is not for the entire amount. It is only for the increase that would be required under this bill and that's what Randy Gates, finance officer from Norfolk, presented to you. That's the only amount that we're talking about so we're not talking about the whole thing, by any means. [LB426]

SENATOR NORDQUIST: Great. Thank you. Any additional questions? Seeing none, thank you. [LB426]

LYNN REX: Thank you. [LB426]

SENATOR NORDQUIST: Are there any additional proponent testifiers? [LB426]

JACKIE LOGHRY: Yeah, I'm Jackie Loghry, last name is L-o-g-h-r-y. You've heard previous testimony on how the younger officers are choosing to go elsewhere. Well, I'm here to represent that. I am the younger officer that is going to be leaving hopefully, going to another state basically due to the retirement that we have right now. After seeing what we have, I decided that I needed to go somewhere where I'm going to have a retirement that I can depend on and the retirement that we have right now I just don't think I can. It's not anything to do with the department that I'm on and it's not that I want to go. It's that I feel that I have to go, basically because of the retirement. But other than that, if you have any questions, I mean I'm just here to just tell you exactly why. But are there any questions? [LB426]

SENATOR NORDQUIST: Thank you for coming in. Any questions from the committee? Seeing none, thank you for your time. Any additional proponent testifiers? Seeing none, I will say we...the committee has received letters and e-mails from a few proponents, including a few that were here today: Steve Reeves, president of the Fraternal Order of Police Number 33; Sergeant Kim Christensen from the York Police Department; Sergeant Bruce Felty from Holdrege Police Department; and Rick Boucher on behalf of the Nebraska Sheriffs Association. And those are all proponent letters. (See Exhibits 5, 6, 2, 18, 8, and 17.) There was one opponent letter from Robert Hartwig, Fremont city administrator, and one neutral from Sergeant Dennis Byrne from Kearney Police

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Department. (See Exhibits 4 and 7.) Are there any opponent testifiers here today? Ah, go ahead. [LB426]

BYRON PATTERSON: Mr. Chairman, thank you for the opportunity to come before you today and other senators and testify on this very important critical issue of law enforcement. My name is Byron Patterson, B-y-r-o-n P-a-t-t-e-r-s-o-n. I am here today representing myself. I am currently employed with the city of Kearney as a captain on the police department. I have been so employed since 1978. By point of reference, I was actively engaged in the negotiation of the 1982-1983 legislation. I've been involved over the years with other changes to that legislation, including the lump sum out option provided to the pre-'84s and including the ability to direct their investment options. Okay? I am a past-president of the Police Officers' Association of Nebraska and I've served numerous terms on the board of directors. Enough on that I guess, but I think it's important that we take a historical note on some of these issues. First of all, one of the reasons I decided not to actively engage in the negotiations, in this round of negotiations, was back in 1983 I personally made a promise and a commitment to the senators that I would not be back seeking a return to a defined benefit program. The negotiations in this latest round, and I think you've heard testimony today, centered on the desire of the police associations to return all officers to a defined benefit program. That is how the current round of negotiations started. Because I personally had made that promise before, I did not feel that it was appropriate for me to advocate that position. I personally believe that for the post-1984 officers, much like Captain Dreyer testified to earlier, that the defined contribution program, if properly administered and with adequate contributions on both the part of the officer and on the part of the city, offers the officer the most realistic, long-term investment on his money, and offers the officer the greatest opportunity and chance at nearing his actual salary figure upon reaching and attaining a retirement age. However, I do not feel the same is true for the pre-1984 officers who negotiated the current law as it sits. Those officers during those negotiations made sacrifices for what they considered to be the betterment of the officers across the state of Nebraska, that being the future officers, those hired on or after January 1, 1984, because that was the switchover date to the defined contribution program. Some of the sacrifices that group of pre-1984 officers made, they received absolutely no interest earned on any of their contributions prior to 1984. You can imagine that if that being the case that from 1984 forward to this day that placed them at an investment disadvantage of some magnitude. It varies with individual to individual with what they made prior to the changeover date in '84 and what investment options they might have had over that time frame. In addition, it's my belief and understanding, and I think if you researched the statute you'll find it that way, that the cities did not immediately match any of the contributions they were supposed to have made prior to 1984 to that same group of officers; that some of those contributions were delayed, further disadvantaging that same group of officers. Enough on the history lesson. There are other salient points and I'd be happy to cover them if there's any questions at a later date and time. We come today to LB426. Other than pointing out the mandate that all of

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the police associations had to negotiate a defined benefit program, not a defined contribution program, those negotiations were held. Quite obviously, a defined contribution program is easier to administer from the city's point of view. A defined benefit program is costly to the cities. When the officer associations began the negotiation process, I think they discovered early on, several years ago, that they weren't going to be able to get a defined benefit program for the officers of the cities of the first class reinstated, so they decided to do the next best thing, with the best of intentions. I'm not here to badmouth the associations in the least respect. With the best of intentions for every officer that they represent, they went into negotiations with the League of Municipalities and they increased the defined contributions to the levels that are represented in LB426. I am all for the post-1984 officers increasing their contributions and having the cities increase their contributions to those officers. It makes good sense and, in a sense, I am not opposed to increasing the contributions that I personally make into my retirement program either or having the city increase the contributions that they make into my retirement program. But there are several, several impacts that that...those increased contributions have on pre-'84 officers that they don't have on post-1984 officers. For instance, the absolute maximum benefit that I can ever draw from the city of Kearney under pre-1984 is 50 percent of my salary, okay, at age 60 with 25 years of service in. At age 55 with 25 years of service in, I can draw 40 percent. That is the exact same benefit that has sat out there and languished for over 25 years now and was previously in the law. That group of officers is now being asked to contribute an additional 3 percent of their salary to fund the same benefit that we've already agreed was going to be paid to them. If I took, personally, the 3 percent of my salary from the start of the proposed date in LB426, and only invested that 3 percent from my salary into an individual Roth IRA, my family upon me retiring would be much better off having done that than to continue to fund increased levels into a system we've already agreed upon for years now and drawing exactly the same benefit. The associations, again, with the best of intentions, went out to negotiate and seek a benefit for law enforcement officers across the state. Unfortunately, the current law is complicated and many of the people associated with those negotiations had not been involved in prior negotiations and I don't believe they fully understood the law and, in fact, I've received e-mails from several of the associations and participants indicating to me that they didn't understand exactly the nature of the agreement that they had reached. I've heard comments today that we are standing by our agreement as of January 16, and I can understand that because the associations did agree in principle and in writing with the League of Municipalities. However, I did not have an opportunity or other pre-'84 officers did not have an opportunity until after that agreement was reached (inaudible) to bring to the attention of the associations the difficulties that they were causing and creating for pre-1984 officers. Once that was done, several of the associations, in my personal opinion, were slow to grasp the nature of the situation. Finally, within the last week, the FOP got a full handle...and they were the quickest ones to grasp the situation, got a full handle on it and they've, to their credit, have tried to work out numerous compromises, as I'm sure you guys might be aware. I'm just here to

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advocate the position from where I'm at and where I sit and for the position of those pre-'84 officers. I don't think any association should obligate its membership to an agreement that they have failed to fully explain the impacts of upon their memberships, and to my knowledge, and that's all I can testify to, to my knowledge, no association has fully explained the impact of this proposed legislation to their entire membership with a particular eye to those officers that might be pre-1984 officers. That being said, I recognize full well that there are very few pre-1984 officers left working in the state of Nebraska. The best numbers I have on that issue are over two years old and they came from the FOP, and their estimate was at that time that about 95 officers. That's why I find it incredibly hard to believe that we cannot work out a compromise of some sort to enable the vast majority of officers in this state to receive a benefit, because we're only talking about having to satisfy the needs of 95 officers who could potentially be hurt by this. It's almost incredible to me that we can't work out a solution that wouldn't meet the needs of everybody, because I am here to tell you and testify that I agree wholeheartedly with what every one of these gentlemen has said about the state of Nebraska's police retirement program for first-class cities. In fact, the League of Municipalities in the 1983 negotiations agreed to meet with the police associations and work out a more equitable increase in contributions. And I, in fact, did meet with them, as well as other members of the associations. My recollection of those meeting was is they ended in failure primarily because at that particular point in time the league also sought to decrease the officers' disability rights as they were currently preserved in statute. So we decided that we could not take away the disability protections afforded under the current law and we walked away from the increases in contribution negotiations. We were successful on the lump sum out option and that is a technical issue that many of the people here today and on the police side of the house don't understand. They don't understand how that's figured and they don't understand what kind of potential unfunded liability that places upon the municipalities, because it does place an unfunded liability on municipalities. Many people involved in investments, including the investment advisors that the city of Kearney uses, were unaware of the lump sum out option available to the pre-1984 officers. They just assumed it was a defined benefit program, which it is not in its entirety. It's more complicated than that. I don't know where else to go. I didn't prepare any written remarks on this. This is off the top of my head and recollections of conversations I've had recently. I am telling you from my deepest heart this is one of the hardest things I've had to do in 30 years in my law enforcement career is to come here and have to take a position in opposition to the police associations, and I'm an individual that has had to do a lot of distasteful things over 30 years but this one really bugs me the wrong way. And I would entertain any questions that you might have. [LB426]

SENATOR NORDQUIST: Thank you, Mr. Patterson. Thank you for coming in. Are there any questions from the committee at this time? Seeing none, thank you. [LB426]

BYRON PATTERSON: Thank you. [LB426]

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SENATOR NORDQUIST: Are there any additional opponent testifiers? Seeing none, any neutral testifiers? Seeing none, Senator Pankonin, you're welcome to close. [LB426]

SENATOR PANKONIN: Thank you, Senator Nordquist. I just had two comments I wanted to make. The first one is a couple people mentioned all the work that I had done. That is not true. I am late to this process, obviously, just being involved this year, but very many people, as was indicated, they have spent literally years on this negotiation and I want to thank all of those folks for their past work and hopefully we can get to some conclusion. Secondly, I just wanted to thank all the officers that have traveled throughout the state to come to the hearing today and indicate, I know on behalf of the entire committee, that we appreciate their service to their communities, their departments, and to the state of Nebraska, and I want to thank them for coming and being involved today. Thank you. [LB426]

SENATOR NORDQUIST: Thank you. (See also Exhibit 19.) That will conclude the hearing on LB426 and the hearing for today. Thank you. [LB426]

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Disposition of Bills:

LB426 - Held in committee.

Chairperson

Committee Clerk